

1 Erik Estavillo
2 3284 Cortese Circle
3 San Jose, CA. 95127
4 (408) 593-1226
5 webbbnet@aol.com

6 UNITED STATE DISTRICT COURT
7
8 NORTHERN DISTRICT OF CALIFORNIA

9 ERIK ESTAVILLO,

10 Plaintiff,

11 vs.
12

13 SENATOR DAVE CORTESE, COUNTRY
14 CLUB VILLA APARTMENTS

15 Defendants.
16

CASE NO. 5:23-cv-04032-VKD

Plaintiff's Response to
Defendants' Motion to Dismiss
Complaint

Judge: Hon. Virginia K.
Demarchi

17
18 Plaintiff herein submits his Response to Defendants' motion to dismiss complaint.
19

20 1. The Defendants' main argument for dismissal is that an identical lawsuit was filed in
21 State Court. Not true. The complaint in state court has very similar wording, but isn't identical.
22 The variations include the fact the plaintiff is asking the state court for California STATE
23 remedies and not FEDERAL remedies. In the state filed complaint the plaintiff states, "The
24 policies of Country Club Villa Apartments violate not just the Federal American with
25 Disabilities Act (a separate federal lawsuit is already being filed as well) but they also violate
26 Californian law which states that any violation of the ADA is considered a civil rights violation
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1 and subject to a minimum statutory penalty of \$4,000, plus attorney's fees because California
2 has already set its own accessibility requirements in the California Building Code which this
3 court has jurisdiction over.” While the wording for the federal complaint varies and
4 states that, “The policies of Country Club Villa Apartments violate not just the Federal
5 American with Disabilities Act... but they also violate Californian law which states that any
6 violation of the ADA Title III is considered a civil rights violation and subject to a
7 minimum statutory penalty of \$4,000, plus attorney's fees because California has already set its
8 own accessibility requirements in the California Building Code which this court has jurisdiction
9 over.” The main difference is that in the state court lawsuit, the plaintiff is seeking strictly any
10 remedies the STATE can provide as where in the federal complaint the plaintiff is seeking any
11 FEDERAL remedies that are covered under ADA Title III. ADA Title III is never
12 mentioned in the state lawsuit. However, if the federal court wishes for the plaintiff to drop his
13 state claim, despite having every right to file a state claim, the plaintiff will do so and only
14 pursue the federal claim. This would be done since the American with Disabilities Act is a
15 federal statute in which the federal court more than has enough jurisdiction, which the
16 Defendants’ are erroneously contending the federal court does not – which is ridiculous.

20
21 2. Defendants’ second claim for dismissal is as they put it, “The purpose of this rule
22 barring claim-splitting serves to protect the party from being harassed by repetitive actions
23 based on the same claim, and promotes judicial economy and convenience.” First of all, who is
24 the one being harassed? The plaintiff did not want a lawsuit in the first place. The plaintiff on
25 many occasions tried to deescalate the situation at Country Club Villa Apartments where he
26 lived. Plaintiff sent out letter after letter and email after email to deescalate the situation and
27 evidence will be attached. The lawsuits only began after plaintiff and his 81 year old
28

1 marine veteran and 72 year old mother were denied adequate handicap parking access, evicted,
2 and threatened with restraining orders (of which defendants never followed through on
3 knowing there was no harassment and would never win any protection orders against the
4 plaintiff). They balked. Furthermore, the plaintiff is poor and the defendants' are rich. If
5 anything, the plaintiff is the one suffering from judicial economy and convenience. However,
6 plaintiff understands that as a pro-se litigant, there isn't much justice to be found anyways
7 without a lawyer as where the rich and the powerful can afford justice. It's unfortunate for all
8 pro-se litigants but it's the reality of the judicial court system. Nonetheless, the plaintiff has
9 faith in Honorable Virginia K. DeMarchi to do her due diligence and give all pro-se litigants a
10 chance at fighting for justice.
11

12
13 3. Finally, Defendants' claim that there is another identical case being judicated in state
14 court. THEY HAVEN'T EVEN FILED AN ANSWER in that case – 4 months late. The Judge
15 told Defendants' to file an answer within 10 days to plaintiff's complaint at a hearing on Sept.
16 14th. They still haven't. Defendants' aren't taking that court or plaintiff serious and didn't even
17 attach a proposed answer which is required when they applied to vacate a default judgment in
18 that case. They're committing these same shenanigans with this federal court. No proposed
19 answer was even filed with their wish for dismissal despite it being due. The State Senator Dave
20 Cortese and his Country Club Villa Apartments believe they are above the law and don't have
21 to follow the rules of answering a complaint in either case. This one or the state one. Perhaps
22 they are above the law. We'll see. But I've never seen a case where Defendants' refuse to
23 answer a complaint in state or federal court when they have been sued legitimately and are
24 required to provide a proposed answer with any motion they make on day that a Default Entry
25 would have otherwise been filed. Plaintiff is still going to file for Default Entry of Judgment
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1 since no Proposed Answer has been filed with the court, but was due on Oct. 12th, 2023.

2
3 October 12th, 2023

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5 /s/ Erik Estavillo
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I'm writing this letter in reference to the parking situation that has occurred with me parking outside the country club villa main apartment complex, in the visitor zone. There are always cars parked in that area next to the security small building as well as across the street. If for some reason I'm unable to park

there I can't understand why as I'm on permanent disability and you will not allow a third sticker to be put on a car. This limits where I can park as now I have to park outside of the main complex and I am unable to wake up at 8:30am every morning to move the car. My whole family here is on disability. My ailing

father, 80, who has paid the rent on time for the last 20 years cannot move the car. My ailing mother, 70, cannot either at this time of day. This is a new car. My dad needs to use this car for medical and doctor visits as well. Also, my Crohn's disease is a rough illness, so I need this car for the same reason. As hard as it

is for me to walk everyday as I try to do to my car, which is parked far away from me in the visitor section or the bank in order to move it, it's becoming a troubling process. I formally request your permission to continue parking in the visitor lot any time of day or to be granted a third sticker so I can park closer to my

house as I am on full disability. I'm doing all this in good faith before anything escalates any further. I'd prefer to deescalate the situation now if at all possible. If granted, my dad told me he'd continue renting here for the next 10 years.

Thank you in advance,
Erik Estavillo

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Resolution to being denied reasonable disability parking access.

Aol/Sent ☆

webbbnet@aol.com <webbbnet@aol.com> Fri, Jun 16 at 1:06 PM ☆

To: info@countryclubvilla.net

Dear Country Club Villa Apartments,

Being officially disabled, all I ever wanted was to be able to park close to my apartment. That has been denied since you would not allow more than 2 parking stickers and we have 3 cars and the owner of each vehicle is disabled. I obliged at first by parking in the visitor section or at Bank of America which is a much further distance than I should have to walk. So I filed a lawsuit and filmed myself serving it to you in the main office where you called the police out of spite. However, they agreed with me and said I could film in the office because I was a tenant who was serving legal documents and that I wanted proof you had received these legal documents. I still retain this video and will show it at court. I wasn't being loud or disturbing the peace as the officers agreed, and in their words, said, "there's nothing we can do here." However, you continued to escalate the situation by calling the police a 2nd time after you told my 80 year old Vietnam veteran dad that you wouldn't even talk to him. It's sad to see something as simple as a parking spot escalate like this; however, I will voluntarily abide to not enter the office again despite you having no restraining order and me still retaining the right to film myself in the public areas of where I live and also retaining the right to film inside the office when I am conducting legal business and video taping proof of service. Nonetheless, I will voluntarily stay out of the main office and I will only further communicate through emails as you requested to de-escalate the situation. I will not be back at the office again.

Sincerely,
Erik Estavillo
Tenant of 3284

1/1

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Lawsuit Dismissal

Aol/Archive

 **webbbnet@aol.com** <webbbnet@aol.com>
To: Countryclubvilla Info

Tue, Jul 18 at 8:43 PM

☆

For Tricia Morse,

Hi, this is Erik from 3284 just letting you know I have dropped the lawsuit against all parties involved, voluntarily, to further de-escalate the situation. All I ever wanted was for my car to be left alone. We are dropping the lawsuit because our family plans on moving within the next year to Carson City, Nevada; therefore, it didn't seem prudent to continue litigation. If you have any questions, you can email me back or just speak to your lawyer(s) letting them know that the the lawsuit has been dropped. They'll check the docket to make sure it has been dropped. Thank you.

Sincerely,
Erik Estavillo

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⚙️

Lawsuit back on - just received your notice to quit. Aol/Sent ☆

webbbnet@aol.com <webbbnet@aol.com> Tue, Jul 18 at 11:27 PM ☆

To: Countryclubvilla Info

For Tricia Morse,

Oh, I guess the lawsuit is back on, dismissal has been rescinded. See you in court . Even if I lose, I will appeal for the next 2-3 years.

Will also file a wrongful eviction notice.

From <webbbnet@aol.com> ▾

To **Countryclubvilla Info** CC / BCC

Re: Lawsuit back on - just received your notice to quit.

AA B I U ☺ 🔗 😊 ☰ ☷ ➡ ➡ ➡

On Tuesday, July 18, 2023 at 11:27:41 PM PDT, webbbnet@aol.com <webbbnet@aol.com> wrote:

For Tricia Morse,

Oh, I guess the lawsuit is back on, dismissal has been rescinded. See you in court . Even if I lose, I will appeal for the next 2-3 years.

Will also file a wrongful eviction notice.

Erik Estavillo
3284 Cortese Circle
San Jose, CA. 95127
(408) 593-1226
webbbnet@aol.com

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 10/10/2023 5:07 PM
Reviewed By: B. Roman-Antunez
Case #23CV417418
Envelope: 13261999**

SUPERIOR COURT OF THE STATE
OF CALIFORNIA COUNTY OF SANTA CLARA

ERIK ESTAVILLO,

Plaintiff,

vs.

SENATOR DAVE CORTESE, COUNTRY
CLUB VILLA APARTMENTS

Defendants.

CASE NO. 23CV417418

Plaintiff's Motion to Compel
Defendants to Answer
Complaint 4 months late.

Judge: Hon. Socrates
Manoukian

Plaintiff herein submits his Motion to Compel the Defendants' Senator Dave Cortese and Country Club Villa Apartments to answer his lawsuit complaint – which is 4 months late. The defendants are deciding to not take this court or the plaintiff seriously enough to even file an answer, but rather to ignore all rules of this court after a default entry was vacated. Default entry now seems more appropriate since the defendants still haven't filed an answer even after the Judge told them to 10 days from their court appearance Sept. 14th – almost more than a month ago. The defendants believe they are above the law, especially since one is a State Senator. But they are not. This court is treating them like they are above the law which isn't appreciated and enforcing their bad behavior by vacating the default entry proves that.

1 Furthermore, by pandering to defendants' willingness to ignore filing an answer and/or
2 following other civil state court procedures without consequence (which the court is allowing
3 since one of the defendants' is a State Senator), seems not only to the Plaintiff, but also to the
4 public, to be highly unreasonable. But this is also expected given the State Senator's status
5 with the court. Lastly, since the plaintiff's cat was poisoned and consequently murdered by
6 Senator Dave Cortese and his Country Club Villa Properties through knowingly spraying so
7 much pesticide to kill a horse near the plaintiff's apartment, the plaintiff will be providing
8 medical records and evidence of this. The defendants' are vengeful, evil people who will kill a
9 cat out of spite. It's no wonder they haven't answered the complaint in 4 months – they're
10 scared to. Let them speak their side of the case, right or wrong. Defend yourself, attack me,
11 make your points, shoot down mine, ask for attorney fees – but don't ignore this court or the
12 lawsuit complaint for nearly half a year when civil procedure requires a defendant to answer a
13 lawsuit WITHIN 30 DAYS. Defendants' are making a mockery of this court system and this is
14 starting to become a joke.

15
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19 October 10th, 2023

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21 /s/ Erik Estavillo
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ANTECH

800.872.1001

Superchem w/SDMA | Complete Blood Count | T4

All Critters Pet Hospital

9339 Rosedale Hwy Ste H, Bakersfield, CA, 93312, USA

Dr. Singh

Received

9/2/2023

Reported

9/2/2023

Accession#

IRMN03375146

Patient Name

Mittens

Owner

Estavillo

Species

Feline

Breed

Sex

SF

Age

12Y

Patient ID

12216

Test Requested	Results	Adult Reference Interval	Units
Superchem w/SDMA			
TOTAL PROTEIN	6.5	5.2-8.8	g/dL
ALBUMIN	3.5	2.5-3.9	g/dL
GLOBULIN	3.0	2.3-5.3	g/dL
A/G RATIO	1.2	0.35-1.5	
AST (SGOT)	27	10-100	IU/L
ALT (SGPT)	52	10-100	IU/L
Alk Phosphatase	68	6-102	IU/L
GGT	1	1-10	IU/L
Total Bilirubin	0.1	0.1-0.4	mg/dL
BUN	28	14-36	mg/dL
Creatinine	1.2	0.6-2.4	mg/dL
SDMA	17.3 (Mild Inc.)	<15.0	UG/dL

A mild increase in SDMA (15.0-20.0 ug/dL in cats and 14.0-16.0 ug/dL in dogs) should be interpreted in light of the patient's history, clinical presentation and hydration status. Some non-renal conditions may cause a mild increase in SDMA. Refer to the Antech SDMA algorithm for further guidance. It is recommended to recheck SDMA and creatinine in 2-4 weeks to assess for persistence of trends in SDMA.

To access the SDMA algorithm, please visit: <https://tinyurl.com/4ypuxfuw>

BUN/CREAT RATIO	23	4-33	
PHOSPHORUS	4.1	2.4-8.2	mg/dL
Glucose	96	64-170	mg/dL
CALCIUM	9.4	8.2-10.8	mg/dL
MAGNESIUM	2.5	1.5-2.5	mEq/L
SODIUM	152	145-158	mEq/L
POTASSIUM	3.5	3.4-5.6	mEq/L
NA/K RATIO	43 (HIGH)	32-41	
CHLORIDE	121	104-128	mEq/L
CHOLESTEROL	91	75-220	mg/dL
TRIGLYCERIDE	31	25-160	mg/dL
AMYLASE	525	100-1,200	IU/L
PrecisionPSL	9	8-26	U/L

Acute pancreatitis is unlikely. Chronic pancreatitis is not excluded by a normal PrecisionPSL.

CPK	750 (HIGH)	56-529	IU/L
------------	-------------------	---------------	------

Test Requested	Results	Adult Reference Interval	Units
Complete Blood Count			
WBC	6.1	3.5-16.0	10 ³ /uL
RBC	8.2	5.92-9.93	10 ⁶ /uL
HGB	12.4	9.3-15.9	g/dL
HCT	39	29-48	%
MCV	48	37-61	fL
MCH	15.1	11-21	pg
MCHC	32	30-38	g/dL
Platelet Count	246	200-500	10 ³ /uL
Platelet Estimate	Adequate		

Differential	Absolute	%		
Neutrophils	3,660	60	2,500-8,500	/uL
Bands		0	0-3	
Lymphocytes	1,647	27	1,200-8,000	/uL
Monocytes	244	4	0-600	/uL
Eosinophils	549	9	0-1,000	/uL
Basophils	0	0	0-150	/uL

Test Requested	Results	Adult Reference Interval	Units
T4			
T4	2.3	0.8-4.0	ug/dL

ANTECH

800.872.1001

CBC Small Mammalian | Mammalian Comprehensive
Chemistries | Urinalysis-Complete**All Critters Pet Hospital**

9339 Rosedale Hwy Ste H, Bakersfield, CA, 93312, USA

Dr. Singh

Received

9/2/2023

Reported

9/2/2023

Accession#

IRAV00685548

Patient Name

Hayden

Owner

Merza

Species

Lagomorph

Breed

Rabbit

Sex

M

Age

4Y

Patient ID

N

Test Requested	Results	Adult Reference Interval	Units
CBC Small Mammalian			
WBC	7.4	3.1-9.7	10 ³ /uL
WBC count estimated from smear.			
HCT	34	33-45	%
Verified by Microhematocrit Method			
RBC Comment	NORMAL		
Platelet Estimate	Adequate		
Differential	Absolute	%	
Heterophils	3,700	50	955-4,458 /uL
Bands		0	0-3
Lymphocytes	3,256	44	669-7,629 /uL
Monocytes	296	4	0-670 /uL
Eosinophils	148 (HIGH)	2	0-125 /uL
Basophils	0	0	0-376 /uL
Comment			
Blood smear reviewed by technologist.			

Test Requested	Results	Adult Reference Interval	Units
Mammalian Comprehensive Chemistries			
TOTAL PROTEIN	6.2	5.3-7.0	g/dL
ALBUMIN	3.5 (LOW)	3.8-4.8	g/dL
GLOBULIN	2.7	1.4-2.9	g/dL
SGOT(AST)	677 (HIGH)	11-36	IU/L
SGPT (ALT)	210 (HIGH)	22-83	IU/L
ALK PHOS	32	22-119	IU/L
T. BILIRUBIN	0.1	0.0-0.2	mg/dL
BUN	63 (HIGH)	12-25	mg/dL
CREATININE	3.0 (HIGH)	0.7-1.4	mg/dL
PHOSPHORUS	8.0 (HIGH)	2.4-5.5	mg/dL
GLUCOSE	93	87-271	mg/dL
CALCIUM	12.4	12.2-16.3	mg/dL
SODIUM	143	137-149	mEq/L
POTASSIUM	5.6	4.0-5.8	mEq/L
CHLORIDE	103	100-112	mEq/L
CHOLESTEROL	72	19-77	mg/dL
CPK	148,095 (HIGH)	205-1,450	IU/L

Test Requested	Results	Adult Reference Interval	Units
Urinalysis-Complete			
Collection Method	Natural Voiding		
Color	Dark Yellow		
Appearance	TURBID		
Specific Gravity	1.025	1.003-1.051	

pH	9.0	7.6-9.0	
Protein	3+	NEG TO TRACE	
Glucose-Strip	NEGATIVE	NEG TO TRACE	
Ketones	NEGATIVE	NEGATIVE	
Bilirubin	NEGATIVE	NEGATIVE	
Occult Blood	2+	NEGATIVE	
WBC	NONE	0-3	HPF
Casts	NONE SEEN	NONE SEEN	LPF
Amorphous Phosphate Crystals	2-3		HPF
Calcium Carbonate Crystals	11-20		HPF
Bacteria	Rods 51-100	NONE SEEN	HPF
Verified by Wright's stain			
Culture is the preferred test for verifying viable bacteriuria.			
Epithelial Cells	NONE SEEN		HPF



Report for: Mittens

Case History

4 image(s) - P is not eating and not using the restroom for 2 weeks. P has been using antibiotic.

All Critters
Requested September 01, 2023 8:47PM
Completed September 02, 2023 8:02PM

Age Unknown
Birthdate 2011-01-01
Breed Dsh
Gender Female
Neutered No
Species Cat
Weight 0.0Lbs

Found

Splenomegaly - Spleen

Likely ▲

Functional ileus - Gastrointestinal

Likely ▲

Hip osteoarthritis - Musculoskeletal

Likely ▲

Checked

Cardiovascular

▲ Normal

Respiratory

▲ Normal

Mediastinum

▲ Normal

Pleural space

▲ Normal

Hepatobiliary

▲ Normal

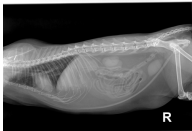
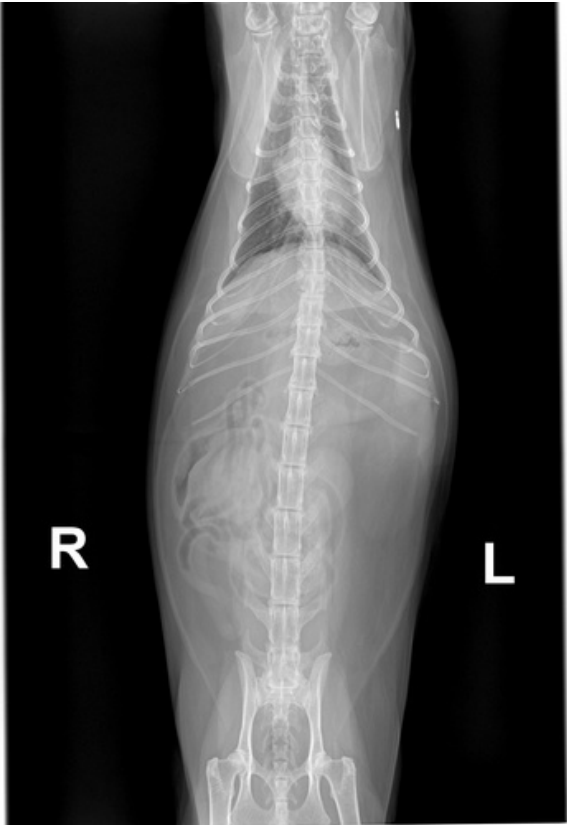
Urogenital

▲ Normal

Peritoneal space

▲ Normal

Patient Images



4 images

Clinical Notes

Opposite lateral and ventrodorsal whole body radiographs (4 images) dated September 1, 2023.

The cardiac silhouette is normal in size and shape with a fair amount of pericardial fat surrounding it. The pulmonary vasculature and great vessels are within normal limits. The pulmonary parenchyma is unremarkable with no nodules, infiltrates, or other pathology detected. No intrathoracic lymphadenopathy is present. The trachea is normal in diameter and course with gas filling its lumen. The mediastinum, pleural space, and diaphragm are normal. The midthoracic esophagus is mildly distended with gas on both lateral views. The liver is unremarkable in size and shape. The spleen is prominent in size on the VD projection, and the tail is visible on the right lateral view. The stomach contains a scant volume of gas. The small intestine is diffusely and predominantly gas-filled with broad ropelike turns in its course to give it a more spread-out distribution than is typical. The colon contains a small amount of formed stool. Both kidneys are normal in size and shape. The

urinary bladder is mildly distended with fluid opacity and has a pointed cranial apex on both lateral views. Retroperitoneal and peritoneal detail are normal. No regional lymphadenopathy is evident.

Mild lumbosacral disc space narrowing is noted. Both hips have mild periarticular bony remodeling affecting them with flared acetabular rims. No aggressive osseous lesions are identified.

Conclusions:

1. Atypical gas-distended small intestine is concerning for enteritis in a functional ileus.
2. Prominent spleen is concerning for splenomegaly. Rule out benign causes (sedation if applicable, extramedullary hematopoiesis, lymphoid hyperplasia) vs. infiltrative round cell neoplasia vs. least likely infectious splenitis (FIP, Mycoplasma, least likely histoplasmosis).
3. Pointed apex of the urinary bladder likely represents a prominent urachal band or persistent urachal remnant. Clinical significance of this finding is unknown, and although it suspected to be a benign/incidental finding, a small diverticulum can result in a urinary tract infection.
4. Normal thorax.
5. Mild hip osteoarthritis and lumbosacral intervertebral disc disease.

Recommendations:

Supportive care with fluid rehydration, antiemetics, gastroprotectants/omeprazole, and bland diet. Discontinuation of the antibiotic could be considered as the cause for use is not included and it may be having a detrimental negative gastrointestinal effect. General health profile (CBC, chemistry, FeLV/FIV UA [via cysto], fecal), systemic blood pressure evaluation, +/- fPLI could be considered to screen for underlying causes. Abdominal ultrasound could also be considered.



Kreig Embriano, VMD, DACVR



visit us at radimal.ai